

Before the Presiding Judges of the Administrative Judicial Regions Per Curiam Rule 12 Decision

APPEAL NO.: 19-028

RESPONDENT: County Court at Law No. 2, Johnson County

DATE: February 10, 2020

SPECIAL COMMITTEE: Judge Stephen B. Ables, Chairman; Judge Ray Wheless, Judge Olen Underwood; Judge Billy Ray Stubblefield; Judge Susan Brown

On October 18, 2019, Petitioners each submitted a Rule 12 records request to Respondent. Three of Petitioners' five requests sought documents that might show any "good cause" reasons to substantiate removal of Petitioners from the Johnson County felony attorney indigent defense appointment list and misdemeanor attorney indigent defense appointment list. Petitioners remaining two requests sought the number of indigent felony defendants and indigent misdemeanor defendants who requested a Spanish-speaking court-appointed attorney. Respondent replied on October 30, 2019 that it was providing Petitioners with certain documents in response to the "good cause" document requests, but that it was not making any pronouncements as to whether the documents demonstrated "good cause" for removal from the appointment lists because doing so would "invade the parameters" of Rule 12.5 exemptions related to judicial work product (Rule 12.5(a)) and internal deliberations (Rule 12.5(f)). Respondent separately asserted that documents or records that fell under Rule 12.5(a) and Rule 12.5(f) were exempt from disclosure. Respondent also informed Petitioners that it was not aware of documents that related to their attorney appointment data requests. Petitioners then filed this appeal and requested expedited review. We did not grant Petitioners' request for expedited review, and the special committee will not address Petitioners' appeals requests that extend beyond the scope of the records requested from Respondent.¹

Petitioners have filed a series of appeals that involve requests for records from Johnson County judicial officers. *See* Rule 12 Decision Nos. 19-019, 19-020, 19-021, and 19-023. In Rule 12 Decision No. 19-019, the special committee reviewed a variety of records requests made by Petitioners to Respondent regarding the county juvenile indigent defense plan, related attorney appointment lists and list maintenance, and related court appointment data. In that decision, the special committee held it could neither grant the petition in whole or in part nor sustain denial to the requested records because the records at issue were not judicial records under Rule 12.

¹ The special committee will not comment on the nature of the documents submitted to it that extend beyond the records sought by Petitioners in their Rule 12 records requests. Rule 12 exists to provide public access to information in the judiciary, and does not require the special committee to opine on the validity of assertions posed by Petitioners. *See* Rule 12 Decision No. 19-016.

The records requests and the Petitioners' appeals at issue here are substantially similar to those analyzed by the special committee in Rule 12 Decision No. 19-019, and we conclude that decision is dispositive of this appeal. Accordingly, we can neither grant the petition in whole or in part nor sustain denial to the records. Because the records at issue are not judicial records, we need not address Respondent's exemption claims, and we conclude Respondent was not obligated to comply with Rule 12 notice of denial procedures in responding to Petitioners.